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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, and 98

[Docket No. APHIS-2009-0093]

Importation of Live Swine, Swine Semen, Pork, and Pork Products from Liechtenstein and Switzerland

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of animals and animal products to add Liechtenstein and Switzerland to the region of Europe that we recognize as low risk for classical swine fever (CSF). We are also adding Liechtenstein to the list of regions we consider free from swine vesicular disease (SVD) and to the list of regions considered free from foot-and-mouth disease (FMD) and rinderpest. These actions will relieve some restrictions on the importation into the United States of certain animals and animal products from those regions, while continuing to protect against the introduction of CSF, SVD, FMD, and rinderpest into the United States.

EFFECTIVE DATE: [Insert date 15 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Rhodes, Regionalization Evaluation Services, Import, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737; (301) 734-4356.

## SUPPLEMENTARY INFORMATION:

### Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations in 9 CFR parts 93, 94 and 98 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including classical swine fever (CSF), swine vesicular disease (SVD), foot-and-mouth disease (FMD), and rinderpest. These are dangerous and destructive communicable diseases of ruminants and swine.

Sections 94.9 and 94.10 of the regulations list regions of the world that are declared free of or low-risk for CSF. Sections 94.24 and 98.38 specify restrictions necessary to mitigate the risk of introducing CSF into the United States via the importation of pork, pork products, live swine, and swine semen from the region of Europe that we recognize as low risk for CSF (currently, 19 Member States of the European Union (EU)). Section 94.12 of the regulations lists regions that are declared free of SVD. Section 94.13 of the regulations lists regions that have been determined to be free of SVD, but that are subject to certain restrictions because of their proximity to or trading relationships with SVD-affected regions. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Section 94.11 of the regulations lists regions that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On May 19, 2011, we published in the Federal Register (76 FR 28910-28913, Docket No. APHIS-2009-0093) a proposed rule<sup>1</sup> to add Liechtenstein and Switzerland to the region of Europe that we recognize as low risk for CSF and to add Liechtenstein to the lists of regions we consider free from SVD and from FMD and rinderpest.

We solicited comments concerning our proposal for 60 days ending July 18, 2011.

We received three comments by that date. They were from an individual and from two organizations representing pork producers. The comments are discussed below.

With respect to our proposal to add Switzerland to the region of Europe that we recognize as low risk for CSF, one commenter asked about Switzerland's current practice regarding the feeding of catering waste to pigs in that country. If Switzerland allows this practice, the commenter wanted APHIS to explain its decision that the level of CSF risk in Switzerland is equivalent to, or less than, the CSF risk in that portion of the EU that APHIS currently recognizes as low risk for CSF. The commenter stated that the EU (which does not include Switzerland) bans the feeding of catering waste to farm animals other than fur animals to reduce disease risk to swine.

Dr. Lukas Perler, head of animal health, Swiss Federal Veterinary Office, has confirmed that Switzerland began enforcing a prohibition on feeding catering waste to pigs on July 1, 2011.

Two commenters noted that our CSF risk evaluations for Switzerland and Liechtenstein indicated those countries rely on passive surveillance and a small amount of serological surveillance in domestic swine and wild boar to detect an outbreak. One commenter urged APHIS to require Switzerland and Liechtenstein to implement and enforce an active surveillance program, to be verified by APHIS, before allowing the countries to export meat to the United

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<sup>1</sup> To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0093>.

States under conditions applicable to regions recognized as low risk for CSF. The other commenter wanted APHIS to explain its decision that the level of CSF risk in Switzerland and Liechtenstein is equivalent to, or less than, the CSF risk in that portion of the EU that APHIS currently recognizes as low risk for CSF, when Switzerland and Liechtenstein do not have a national surveillance plan for CSF that is equivalent to other EU countries or the United States.

Our risk assessment found no evidence that CSF virus currently exists in Switzerland or Liechtenstein and no immediate and significant risks associated with this hazard. The last CSF cases in Switzerland occurred in 1993 in domestic swine and 1999 in wild boar; Liechtenstein has never reported a CSF outbreak.

CSF infection in free-ranging wild boar is not an immediate concern for introduction of the disease into Switzerland or Liechtenstein, since the closest known infected population is located over 150 kilometers from the Swiss border, in Germany.

Switzerland and Liechtenstein have adopted import and trade regulations concerning live animals and animal products that are equivalent to the European Commission regulations that apply to all EU Member States. Consequently, the baseline risk of CSF introduction into Switzerland or Liechtenstein through import or trade is similar to that of an EU Member State. Since Switzerland and Liechtenstein import very few live swine, require substantial veterinary oversight of the live swine that are imported, and essentially prohibit transit across either country, the risk of CSF introduction by this pathway is negligible.

Passive surveillance in wild boar is ongoing through hunter submissions. Hunters are required by law to report any wild boar found dead to an official veterinarian, who retrieves the carcass and submits it for pathology and CSF testing. Some cantons—including Ticino and the northern cantons of Zürich, Basel, and Aargau—require CSF testing of all hunted wild boar.

The Swiss Veterinary Service is enhancing passive surveillance for CSF through training and outreach activities focused on producers and private veterinarians. The emergency response plan includes provisions for CSF-specific training and outreach for veterinary professionals, animal keepers, the hunting community, and the general public.

In addition, Switzerland tests 700-1,000 swine each year for CSF, primarily for import or export of domestic swine, or for boars entering artificial insemination centers.

We believe the level of surveillance for CSF is adequate and that the facts support our determination that level of CSF risk in Switzerland and Liechtenstein is equivalent to, or less than, the CSF risk in that portion of the EU that APHIS currently recognizes as low risk for CSF.

Finally, one commenter expressed general concern about the effect of imports on American farmers. The Office of the United States Trade Representative (USTR) calls trade critical to America's prosperity—fueling economic growth, supporting good jobs at home, raising living standards, and helping Americans provide for their families with affordable goods and services. Both imports and exports contribute to the U.S. economy. While exports raise productivity and incomes, imports increase consumer choices and purchasing power. As provided by the Animal Health Protection Act, APHIS regulates the importation of animals and animal products only to the extent necessary to protect against the introduction of livestock diseases and pests that could harm U.S. agriculture. USDA places a high priority on removing unnecessary trade barriers on both imports and exports.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

## Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the Federal Register. This rule adds Liechtenstein and Switzerland to the region of Europe that we recognize as low-risk for CSF. This rule also adds Liechtenstein to the list of regions we consider free from swine vesicular disease and to the list of regions we consider free from FMD and rinderpest. These changes will allow breeding swine, swine semen, and pork and pork products to be imported into the United States from these countries subject to certain conditions. We have determined that approximately 2 weeks are needed to ensure that APHIS and Department of Homeland Security, Bureau of Customs and Border Protection, personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the Federal Register.

## Executive Order 12866 and Regulatory Flexibility Act

This final rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see footnote 1 above for instructions for accessing Regulations.gov).

Our analysis identifies U.S. swine producers as the small entities potentially affected by the provisions of the rule, but also notes that Switzerland and Liechtenstein have, historically, exported a minimal amount of swine or swine products.

Under these circumstances, the Administrator of the Animal and Plant Health Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

#### List of Subjects

##### 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

##### 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

##### 9 CFR Part 98

Animal diseases, Imports.

Accordingly, we are amending 9 CFR parts 93, 94, and 98 as follows:

PART 93–IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. In § 93.500, the definition of APHIS-defined EU CSF region is removed and a definition of APHIS-defined European CSF region is added, in alphabetical order, to read as follows:

§ 93.500 Definitions.

\* \* \* \* \*

APHIS-defined European CSF region. The regions of Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Republic of Ireland, Spain, Sweden, Switzerland, and the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern Ireland).

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§ 93.505 [Amended]

3. In § 93.505, paragraph (a), the words “APHIS-defined EU CSF region” are removed and the words “APHIS-defined European CSF region” are added in their place.

PART 94–RINDERPEST, FOOT-AND-MOUTH DISEASE, EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR



DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND  
RESTRICTED IMPORTATIONS

4. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, 7781-7786, and 8301-8317; 21 U.S.C. 136 and  
136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

5. In § 94.0, the definition of APHIS-defined EU CSF region is removed and a definition  
of APHIS-defined European CSF region is added, in alphabetical order, to read as follows:

§ 94.0 Definitions.

\* \* \* \* \*

APHIS-defined European CSF region. The regions of Austria, Belgium, the Czech  
Republic, Denmark, Finland, France, Germany, Greece, Italy, Latvia, Liechtenstein, Lithuania,  
Luxembourg, the Netherlands, Poland, Portugal, Republic of Ireland, Spain, Sweden,  
Switzerland, and the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern  
Ireland).

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§ 94.1 [Amended]

6. In § 94.1, paragraph (a)(2) is amended by adding the word “Liechtenstein,”  
immediately after the word “Latvia,”.

§ 94.9 [Amended]

7. In § 94.9, paragraphs (b) and (c) introductory text, the words “APHIS-defined EU  
CSF region” are removed each time they appear and the words “APHIS-defined European CSF  
region” are added in their place.

§ 94.10 [Amended]

8. In § 94.10, paragraphs (b) and (c), the words “APHIS-defined EU CSF region” are removed each time they appear and the words “APHIS-defined European CSF region” are added in their place.

§ 94.11 [Amended]

9. In § 94.11, paragraph (a) is amended by adding the word “Liechtenstein,” immediately after the word “Latvia,”.

§ 94.12 [Amended]

10. In § 94.12, paragraph (a) is amended by adding the word “Liechtenstein,” immediately after the word “Latvia,”.

§ 94.13 [Amended]

11. In § 94.13, in the introductory text, the first sentence is amended by adding the word “Liechtenstein,” immediately after the word “Latvia,”.

§ 94.24 [Amended]

12. Section 94.24 is amended as follows:

a. In the section heading, by removing the words “APHIS-defined EU CSF region” and adding the words “APHIS-defined European CSF region” in their place.

b. In paragraph (a) introductory text and paragraph (a)(1)(i), by removing the words “APHIS-defined EU CSF region” each time they appear and adding the words “APHIS-defined European CSF region” in their place.

c. In paragraphs (a)(1)(ii) and (a)(1)(iii), by removing the words “APHIS-defined EU CSF region” each time they appear and adding the words “APHIS-defined European CSF region” in their place, and by removing the words “of the Member State” each time they appear.

d. In paragraph (a)(5), by removing the words “of the APHIS-defined EU CSF region Member State”.

e. In paragraph (b) introductory text and paragraph (b)(2)(i), by removing the words “APHIS-defined EU CSF region” each time they appear and adding the words “APHIS-defined European CSF region” in their place.

f. In paragraph (b)(2)(ii) and (b)(2)(iii), by removing the words “the APHIS-defined EU CSF region” each time they appear and adding the words “the APHIS-defined European CSF region” in their place, and by removing the words “of the Member State” each time they appear.

g. In paragraph (b)(6), by removing the words “of the APHIS-defined EU CSF region Member State”.

#### PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

13. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

14. In § 98.30, the definition of APHIS-defined EU CSF region is removed and a definition of APHIS-defined European CSF region is added, in alphabetical order, to read as follows:

#### § 98.30 Definitions.

\* \* \* \* \*

APHIS-defined European CSF region. The regions of Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Republic of Ireland, Spain, Sweden,

Switzerland, and the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern Ireland).

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§ 98.38 [Amended]

15. Section 98.38 is amended as follows:

a. In the section heading, by removing the words “APHIS-defined EU CSF region” and adding the words “APHIS-defined European CSF region” in their place.

b. In the introductory text, by removing the words “APHIS-defined EU CSF region” and adding the words “APHIS-defined European CSF region” in their place.

c. In paragraph (a), by removing the words “of the APHIS-defined EU CSF region Member State”.

d. In paragraph (b)(1), by removing the words “APHIS-defined EU CSF region” and adding the words “APHIS-defined European CSF region” in their place.

e. In paragraphs (b)(2) and (b)(3), by removing the words “APHIS-defined EU CSF region” each time they appear and adding the words “APHIS-defined European CSF region” in their place, and by removing the words “of the Member State” each time they appear.

f. In paragraph (i), by removing the words “of the APHIS-defined EU CSF region Member State”.

Done in Washington, DC, this 4<sup>th</sup> day of November 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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